

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JOSEPH HENSLEY,
Plaintiff

v.

**PENNSYLVANIA
DEPARTMENT OF
CORRECTIONS, et al.,**
Defendants

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No. 1:23-cv-01327

(Judge Rambo)

ORDER

AND NOW, on this 18th day of January 2024, upon consideration of pro se Plaintiff Joseph Hensley (“Plaintiff”)’s complaint (Doc. No. 1), motions for leave to proceed in forma pauperis (Doc. Nos. 5, 10), and motion for the appointment of counsel (Doc. No. 7), and in accordance with the accompanying Memorandum, **IT IS ORDERED THAT:**

1. Plaintiff’s certified motion for leave to proceed in forma pauperis (Doc. No. 10) is **GRANTED**, and Plaintiff’s other motion for leave to proceed in forma pauperis (Doc. No. 5) is **DENIED as moot**;
2. Plaintiff’s complaint (Doc. No. 1) is **DEEMED** filed;
3. Plaintiff shall pay the full filing fee of \$350.00 based on the financial information provided in the application to proceed in forma pauperis. The full filing fee shall be paid regardless of the outcome of the litigation;
4. Pursuant to 28 U.S.C. § 1915(b)(1) and (2), the Superintendent/Warden or other appropriate official at Plaintiff’s place of confinement is directed to deduct an initial partial filing fee of 20% of the greater of:

- a. The average monthly deposits in the inmate's prison account for the past six months, or
- b. The average monthly balance in the inmate's prison account for the past six months.

The initial partial filing fee shall be forwarded to the Clerk of the United States District Court for the Middle District of Pennsylvania, P.O. Box 1148, Scranton, Pennsylvania, 18501-1148, to be credited to the above-captioned docket number. In each succeeding month, when the amount in Plaintiff's inmate trust fund account exceeds \$10.00, the Superintendent/Warden or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Plaintiff's inmate trust fund account until the fees are paid. Each payment shall reference the above-captioned docket number;

5. The Clerk of Court is directed to **SEND** a copy of this Order to the Superintendent/Warden of the institution wherein Plaintiff is presently confined;
6. Plaintiff's complaint (Doc. No. 1) is **DISMISSED** for failure to state a claim upon which relief can be granted pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) as follows:
 - a. Plaintiff's claims for injunctive and declaratory relief are **DISMISSED WITH PREJUDICE**;
 - b. Plaintiff's 42 U.S.C. § 1983 ("Section 1983") claims against Defendants the DOC, the Pennsylvania Board of Parole, SCI Huntingdon staff, McCloskey, and Beatty are **DISMISSED WITH PREJUDICE**, and the Clerk of Court is directed to **TERMINATE** these Defendants from the docket of this case;
 - c. Plaintiff's remaining Section 1983 claims against Defendants Wendel, Conway, Cousins, DelBianco, Dancha, and Ramper are **DISMISSED WITHOUT PREJUDICE**;

7. Plaintiff is **GRANTED** leave to amend his Eighth Amendment claim under Section 1983 against Defendants Wendel, Conway, Cousins, DelBianco, Dancho, and Ramper;
8. The Clerk of Court is directed to **SEND** Plaintiff a form civil rights complaint;
9. Plaintiff shall complete the form complaint and file it with the Court. Plaintiff shall title his form complaint “Amended Complaint” and include the docket number for this case, 1:23-cv-01327;
10. Plaintiff shall file his amended complaint within **thirty (30) days** of the date of this Order;
11. In the event that Plaintiff does not file an amended complaint within thirty (30) days, the Court will dismiss this action without prejudice;
12. Plaintiff’s motion for the appointment of counsel (Doc. No. 7) is **DENIED WITHOUT PREJUDICE**; and
13. Plaintiff’s motion to add witnesses to this case (Doc. No. 21) is **GRANTED** to the limited extent that the Court accepts that, should this case go to trial, Plaintiff would request to call the various individuals he has listed in his motion as witnesses. See (id. (naming, inter alia, numerous individuals from SCI Frackville, SCI Huntingdon, and Pennsylvania State Police)).

s/ Sylvia H. Rambo
SYLVIA H. RAMBO
United States District Judge